Simon v. Adzilla, Inc [New Media] et al
Doc. 158 Att. 8

EXHIBIT I

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Sutton, Theresa A.

From: Peterson, Arissa [apeterson@wkg.com]

Sent: Monday, October 16, 2006 11:40 AM

To: Sutton, Theresa A.

Subject: ConnectU v. Facebook: Subpoena to Pacific Northwest Software

Dear Theresa,

Since we last spoke, I have had an opportunity to further review the complaint, answer and counter-claim as well as the August 24, 2006 Second Memorandum and Procedural Order (dkt #230) in the *ConnectU, LLC v. Facebook, Inc., et al.* USDC District of Massachusetts matter (04-CV-11923). The narrow issue as you explained it to me and as I understand from the August 24, 2006 order is whether Divya Narenda was a member of ConnectU, LLC at the time the original complaint was filed on September 2, 2004. Magistrate Judge Collings's order seems to be clear that counsel may only take discovery on this sole issue prior to the dispositive motion hearing to dismiss for lack of diversity jurisdiction. ("Counsel may take discovery on the issue of Divya Narendra's membership in ConnectU, LLC at the time the original Complaint was filed prior to the hearing."). I understand this hearing is scheduled for October 24, 2006.

After reviewing the documents my client sent to me in light of the August 24, 2006 order, and as I explained to you on the phone, Pacific Northwest Software does not have any documents regarding the formation of ConnectU, LLC or any documents relating to Divya Narendra. Moreover, my client did not start working with ConnectU until December 2004, therefore I do not see how any of my clients documents from December 2004 and thereafter have any relevance to the issue of whether Divya Narendra was a member of ConnectU on September 2, 2004. At this juncture in the litigation and consistent with my understanding of Magistrate Judge Colling's Order, only request number 1 and request number 2 of the subpoena duces tecum are relevant. Therefore, as to requests 3, 4, 5, 6 and 7 of the subpoena duces tecum appear to be overly broad, burdensome and irrelevant in light of the pending dispositive motion, and on this basis, Pacific Northwest Software objects to requests 3, 4, 5 6 and 7 of the subpoena duces tecum.

My client would be willing to provide a declaration of records custodian regarding requests 1 and 2. I look forward to your response. If you would like to discuss this further, please feel free to call.

Very truly yours,

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